

Project: Police Memorial and North Cove
Marina Electrical Vault Resilience
Project Construction Services

Date: 11/02/15

RE: Addendum # 6
of Pages: (4 pages)

The following revisions and/or clarifications are to be made to the Request for Proposals for “**Police Memorial and North Cove Marina Electrical Vault Resilience Project Construction Services.**”

Clarifications / Revisions:

1. A Site tour of the Police Memorial Vault and North Cove Vaults will be conducted on Wednesday November 4, 2015 at 2:00pm. All proposers who wish to access the vault spaces should report to the BPCA Offices located on the 24th floor of 200 Liberty Street, New York, N.Y. and must provide the attached waiver and insurance certificates specified.

By signing the line below, I am acknowledging that all pages of the addendum have been received, reviewed and understood, and will be incorporated into the bid price submitted. This document must be attached to the Proposal for consideration.

Print Name

Signature

Date

Number of pages received: _____ <fill in>

**Assumption of Risk, Waiver of Liability and Release
("Waiver and Release")**

PLEASE READ THIS DOCUMENT CAREFULLY - IT AFFECTS YOUR RIGHTS

The undersigned desires to perform an inspection of the conditions of the existing below-grade Police Memorial and North Cove Marina electrical vaults associated with the Police Memorial and North Cove Marina Electrical Vault Resilience Project Construction Services Request for Proposals (the "RFP") issued by the Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority (the "Authority") on or about September 14, 2015. The undersigned has been advised and understands that the inspection of the two existing vaults (the "Vaults") can be dangerous and involve numerous risks, including death or serious bodily injury. As an inducement to the Authority, the Battery Park City Parks Conservancy (the "Conservancy"), the City of New York, the State of New York and all firms and persons related to, or involved in, the design, construction development and maintenance of the Vaults (the "Project Team") to allow the undersigned to visit and enter the Vaults and observe existing conditions, the undersigned, for himself/herself/itself and his/her/its successors, heirs, assigns, and legal representatives, does hereby expressly agree and acknowledge the following:

1. The undersigned hereby voluntarily assumes any and all risks involved in, or in any way related to, the undersigned's visit (including the visit of any of its employees, agents or representatives) to the Vaults and observation of existing conditions, including, but not limited to, the risk of death, bodily injury or property damage resulting from such visit or observation, including the unavailability of emergency medical care or the negligent or deliberate acts of other persons.
2. The undersigned releases and forever discharges any and all members of the Project Team, together with their members, directors, managers, officers, employees, agents, affiliates, successors, heirs and assigns, from, and agrees not to sue them on account of or in connection with, any liabilities, claims, causes of action, suits, obligations, injuries, damages, judgments, costs, or expenses, including attorney's fees and disbursements, arising out of the undersigned's visit (including the visit of any of its employees, agents or representatives) to the Vaults and observation of existing conditions, including, but not limited to, those based on death, bodily injury, or property damage, except when caused solely by the gross negligence of any member of the Project Team. **THE FORGOING RELEASE IS INTENDED TO BE THE MAXIMUM AND BROADEST RELEASE PERMITTED BY LAW.**
3. The undersigned waives the protection afforded by any statute or law in any jurisdiction whose purpose, substance and/or effect is to provide that a general release does not extend to claims which the person giving the release does not know or suspect to exist at the time of executing the release.
4. The undersigned agrees to indemnify and hold harmless any and all members of the Project Team and their members, directors, managers, officers, employees, agents, affiliates, successors, heirs and assigns, to the fullest extent permitted by law, from and against any and all liabilities, claims, causes of action, suits, obligations, injuries, damages, judgments, costs or expenses, including reasonable attorney's fees and disbursements, which arise in any way from the undersigned's conduct (including the conduct of any of its employees, agents or representatives) at/in the Vaults and any and all damages to property on such Site, injury to any other person at/in such Vaults, including areas located underground and/or

underwater, caused, directly or indirectly, by the undersigned, whether by inadvertence, negligence, willful misconduct or otherwise.

5. The undersigned acknowledges and agrees that he/she/it is familiar with and understands industry standard safety procedures and rules for conducting an inspection of the Site and for observing conditions at/in the Vaults. The undersigned agrees to strictly abide by all safety and other rules and expressly agrees not to approach or enter the Vaults while under the influence of alcohol and/or any drugs.
6. The undersigned acknowledges and agrees that he/she/it has been advised of the following nonexclusive list of potentially dangerous conditions: (1) the inherent risks associated with the nature of the inspection activity itself; and (2) the inherent risks associated with entering and exiting an underground vault; and (3) the inherent risks associated with an electrical vault.
7. The undersigned represents and warrants that he/she/it (a) assumes full responsibility for his/her/its own safety and health and for all known and unknown risks and damages in visiting the Site, and (b) has not relied on information given or not given to him/her/it by the Project Team regarding the risks or dangers present at/in the Vaults.
8. **The undersigned shall provide a certificate of insurance meeting or exceeding the following minimum coverage levels:**

Commercial General Liability Insurance, written on ISO Form CG 00 001 or its equivalent and with no modification to the contractual liability coverage provided therein, shall be provided on an occurrence basis and limits shall not be less than:

- a. \$1,000,000 per occurrence
- b. \$2,000,000 General Aggregate
- c. \$2,000,000 Products / Completed Operations Aggregate

The Authority, the Conservancy, and the State of New York must be protected as additional insured on ISO Form CG 2010 (11/85) or its equivalent.

Automobile Liability Insurance with a Combined Single Limit of not less than \$1,000,000. Coverage must apply to the Proposer's owned, hired, and non-owned vehicles and protect the Authority, the Conservancy, and the State of New York as additional insured.

Workers' Compensation, Employer's Liability, and Disability Benefits shall not be less than statutory limits, including United States Longshore and Harbor Workers Act coverage as applicable to the operations of the Proposer.

Umbrella Liability Insurance at a limit not less than \$1,000,000 per occurrence and in the aggregate. The Authority, the Conservancy, and the State of New York must be protected as additional insured.

The additional insured protection afforded the Authority, the Conservancy and the State of New York on the above liability policies must be on a primary and non-contributory basis. All policies must include a waiver of subrogation in favor of the Authority, the Conservancy and the State of New York, and no policies may contain any limitations / exclusions for New York Labor Law claims.

9. The undersigned further agrees not to disclose or divulge to any person in any manner, without the prior written approval of the Authority, any information concerning the Vaults for any purpose whatsoever, except as may be necessary to prepare and submit a proposal in response to the RFP.
10. The undersigned agrees that in the event of any accident which may require immediate medical, dental or other emergency care, transportation and emergency medical services, in which no next of kin can be notified in a reasonable amount of time through reasonable means, the Authority is hereby authorized, but not required, to take all necessary actions as relates to immediate medical, dental or other emergency care, transportation and emergency medical services as warranted in the course of care of the undersigned. The undersigned agrees that he/she/it shall be responsible for all fees and expenses as they relate to this paragraph.

The undersigned has read this Waiver and Release, understands that by making this Waiver and Release, he/she/it surrenders valuable rights and does do so freely and voluntarily. The undersigned understands that the terms contained herein are contractual and not a mere recital; and has signed this Waiver and Release as his/her/its own free act.

This Waiver and Release shall be governed by, and construed in accordance with, the laws of the State of New York, without reference to its conflicts of laws rules.

Invalidity of any provision of this Waiver and Release shall not affect other provisions.

Signature

Printed Name (and title, if applicable)

Name of Organization (if applicable)

Emergency Contact Name and Number

Date: _____